United Nations S/AC.43/2010/9

Security Council

Distr.: General
24 September 2010

Original: English

**Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo**

## Note verbale dated 1 September 2010 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Germany to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo and has the honour to hereby transmit the report of Germany on the implementation of measures set forth in Security Council resolutions 1857 (2008) and 1896 (2009) and subsequent resolutions (see annex).

10-55017 (E) 270910

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**Annex to the note verbale dated 1 September 2010 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee**

**Report of Germany to the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo on the implementation of measures set forth in Security Council resolutions 1857 (2008) and 1896 (2009) and subsequent resolutions**

## I. Measures adopted by the European Union

Germany and the other member States of the European Union have jointly implemented the restrictive measures imposed by Security Council resolutions 1857 (2008) and 1896 (2009) by taking common measures (all common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: www.eur-lex.europa.eu/JOIndex.do (published issues) and www.eur-lex.europa.eu/RECH_menu.do (search from)):

1. Council Common Position 2008/369/CFSP of 14 May 2008 concerning restrictive measures against the Democratic Republic of the Congo and repealing Common Position 2005/440/CFSP as amended by Common Position 2009/66/CFSP and Council Decision 2009/349/CFSP.

The Council Common Position sets out the EU's commitment to implementation of all the measures contained in Security Council resolution 1596 (2005) and resolution 1807 (2008), and provides the basis for EU specific implementation measures within the scope of the resolutions, notably:

- An embargo on arms and related material against all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo as well as a ban on the provision of related technical assistance and financing,
- Restrictions on admission for persons designated by the United Nations sanctions Committee,
- Asset freeze of funds, other financial assets and economic resources owned or controlled directly or indirectly by the persons designated by the United Nations sanctions Committee.

Security Council resolutions 1857 (2008) and 1896 (2009) renew the restrictive measures of resolution 1807 (2008). The Council Common Position is reviewed, amended or repealed as appropriate, as determined by the United Nations Security Council.

2. (a) Council Regulation (EC) No. 889/2005 of 13 June 2005 imposing certain restrictive measures in respect of the Democratic Republic of the Congo and repealing Regulation (EC) No. 1727/2003 as amended by Council Regulation (EC) No. 1377/2007 and Council Regulation (EC) No. 666/2008.

(b) Council Regulation (EC) No. 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of

the arms embargo with regard to the Democratic Republic of the Congo as amended by Council Regulation (EC) No. 1791/2006 and Commission Regulation (EC) No. 242/2009.

The provisions of the Common Position concerning the embargoes on certain technical and financial assistance and the freezing of funds and economic resources fall within the competence of the European Union and are implemented by Council regulations.

Council regulations are directly and legally applicable in the EU member States as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately by the Council Regulations. No further national implementation is necessary in this respect.

## II. National implementing measures

With regard to the arms embargo, Germany has implemented the restrictive measures through section 69 (f) of the Foreign Trade and Payments Regulation. Criminal penalties for any infringements of the arms embargo are set out in section 70 (a), paragraph 2, of the Foreign Trade and Payments Regulation, and section 34, paragraph 4, No. 1, of the Foreign Trade and Payments Act.

Criminal penalties for the violation of the directly applicable provisions of the Council Regulations and their amendments are imposed on the national level pursuant to section 34, paragraph 4, No. 2, of the Foreign Trade and Payments Act.

The penalty imposed by section 34, paragraph 4, of the Foreign Trade and Payments Act is a term of imprisonment of up to five years. Any attempt to violate will be punished in the same way. Violations due to negligence are sanctioned with imprisonment of up to three years or fines (section 34 (7) of the Foreign Trade and Payments Act).

Congolese nationals travelling to Germany require a visa when entering the European Union. Travel restrictions are being implemented through the visa application process.